In the High Court of Punjab and Haryana at Chandigarh

C.W.P. No.8652 of 2006
Date of Decision: 26.10.2006

Sachin Pal and another **---Petitioners**

Vs.

Union of India and others **---Respondents**

Coram: Hon'ble Mr. Justice M.M.Kumar
Hon'ble Mr. Justice M.M.S.Bedi

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Present: Mr.Ram Chander, Advocate,
for the petitioners.

Mrs. Daya Chaudhary, Assistant Solicitor General of India,
for the respondents.

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M.M.Kumar, J.(Oral)

The claim made by the petitioners is for issuance of direction to the respondents to consider their cases for compassionate appointment on account of death of their father and husband respectively, Shri Binda who was working as CIV labour with respondent No. 3. He had died in harness on 11.9.1997. His widow namely Jugan Devi petitioner No. 2, applied for compassionate appointment. She was intimated by respondent that on account of deadlock in respect of the category of mazdoor nothing could be done. Petitioner No. 2 thereafter filed O.A. No. 341/HR/99 which was disposed of with a direction to respondent No.1 to take a decision in the matter. Accordingly respondent No. 1 vide impugned order dated 12.7.2001 (Annexure P-3) has rejected the claim of the petitioner. The view of

respondent is evident from reading of the followings paras:-

> "2. According to the information/documents available on record the following is the position/status of the family of deceased government servant:-
>
> (a) The death of the government servant occurred on 11.9.1997. His family members are wife, two daughters and three sons. The deceased's family received Rs. 1,15,515/- as terminal benefits. At present the family is in receipt of Rs. 1645/- per month as family pension plus DA with time increase. The applicant is having an income of Rs. 6000/- pa from all sources.
>
> 3. The employment on compassionate ground can not be given to you due to non availability of vacancy of Mazdoor in prescribed quota mean for compassionate appointment."

After hearing the learned counsel for the parties, we are of the considered view that the compassionate appointment cannot be claimed as a matter of right as it is not a mode of employment. The impugned order amply discloses that the petitioners are not living in penury. Shri Binda CIV labour had died in 1997 and they have been able to look after themselves for such a long period. The object of making compassionate appointment is to overcome sudden financial crises created by untimely death of an employee. In a catena of judgments, the Hon'ble Supreme Court has repeatedly taken the aforementioned view. In this regard reference may be made to the view of Hon'ble the Supreme Court in the

cases of **Hindustan Aeronotics Ltd. v. A.Radhika Thirumalai (1996) 3 SCC 394, National Hydro Electric power Corporation v. Nanak Chand (2004)12 SCC 487, State of Manipur v. Mohamad Rajaudin (2003) 7 SCC 511** and **Commissioner of Public Instructions v. K.R. Vishwanath (2005)7 SCC 206.**

The other argument raised by the learned counsel for the petitioner is that one Ramesh Kumar another CIV labour died in the year 2001 and compassionate appointment was given to his widow Smt. Soma in Delhi office of the respondent whereas the application of the petitioner was not sent to Delhi office for consideration. The aforementioned submission can also not to be accepted because no details have been furnished by the petitioner regarding economic conditions of the family of Ramesh Kumar. Every case has to be decided by the authorities on the basis of peculiar facts and circumstances. If the family of Smt. Soma had been living in penury and their conditions warranted compassionate appointment then it may not be a case of discrimination. The petitioner has not placed reliance on any policy and rules concerning compassionate appointment and in the absence of such policy or rules the principles laid down by Hon'ble the Supreme Court in the judgments referred to above deserve to follow.

In view of the above, this writ petition is failed and the same is dismissed.

(M.M.KUMAR)
JUDGE

(M.M.S.BEDI)
JUDGE

October 26, 2006
paramjit